

Testimony of Ruth A. Moore  
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before the

United States House of Representatives  
Subcommittee on Economic Development, Public Buildings and Emergency Management

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Chairman Shuster and members of the Subcommittee on Economic Development, Public Buildings and Emergency Management, on behalf of Commissioner Sheehan I want to thank you for allowing the New York State Department of Environmental Conservation (Department) to testify today on timely and important Congressional legislation to reauthorize the federal Dam Safety program, H.R. 4981. My name is Ruth Moore, and I serve as the Department=s Deputy Commissioner for Natural Resources and Water Quality.

Over the past year, natural disasters such as Hurricanes Katrina and Rita have focused national attention on the need to evaluate the safety of water infrastructure, including dams. Within New York State, serious floods in 2005 and 2006 have illustrated the importance of protecting our dam infrastructure through federal, state and local investments. The Department welcomes the Subcommittee=s interest in dam safety and applauds Congressman Kuhl for introducing H.R. 4981.

### **The Department=s Role in Dam Safety**

Article 15 of New York State=s Environmental Conservation Law (ECL) provides the statutory framework for many of the Department=s water resource programs, including dam safety. This Article recognizes that ANew York State has been generously endowed with water resources which have contributed and continue to contribute greatly to the position of preeminence attained by New York in population, agriculture, commerce, trade, industry and outdoor recreation@ (ECL ' 15-0103(2)). The State law notes as well the potentially detrimental impact which human actions, including the diversion and destruction of water courses, has had on aquatic habitats and water supplies. Accordingly, the Department=s dam safety program is designed both to protect the public and safeguard property and to ensure that natural resources are not detrimentally affected.

The New York State Legislature first recognized the need for the State to regulate dams in 1911, making the Department=s dam safety program one of the oldest in the Nation. This statute provides that no person or local public corporation can construct, reconstruct or repair a dam without a permit from the Department. Dam owners must operate and maintain dams in a safe condition, and the Department has the legal authority, after a hearing on due notice, to remove or repair a dam in order to safeguard life, property or the natural resources of the State. The Department also has the authority to require the removal of a dam or repairs on an emergency basis, if necessary to protect public health and safety. Additional provisions of State law provide the Department with authority over inspections, monitoring, maintenance and operation, emergency action planning, financial security, record keeping and reporting. These State statutory requirements facilitate the Department=s ability to implement the National Dam Safety Program (NDSP) in New York State. Amendments to the NDSP, as proposed by H.R. 4981, would enhance these on-going state and federal efforts.

### **Dams in New York State**

Including 160 hydroelectric dams which are licensed by the Federal Energy Regulatory Commission, there are 5,579 dams in New York State. The Department classifies these dams as High, Intermediate, and Low Hazard. A High hazard dam is defined as a dam that may cause loss of life, serious property damage and/or cause extensive economic loss in the event of failure. As a result, these dams are a priority for the Department's oversight. An intermediate hazard dam is defined as a dam whose failure can damage property or the environment, or interrupt use or service of relatively important public transportation or utilities. A low hazard dam is one whose failure may cause minor economic damage, or interrupt the use of local roads or minor utilities. State Dam Safety permits are required for work on all but the smallest dams in the State.

While the safe operation of a dam is the responsibility of the dam owner, the Department's staff perform regular, periodic inspections of certain dams in addition to the dam owner's operational and inspection activities. The 384 high hazard dams are inspected every two years, and the 757 intermediate hazard dams have historically been inspected every four years. Staff also perform unscheduled inspections of dams as needed. Dams under construction may be inspected more frequently. Dam Safety staff perform an average of 350 to 400 dam inspections each year, and, with the new staff which Governor George E. Pataki approved for the State's current fiscal year, the Department's ability to inspect dams will increase. When dam safety staff identify significant deficiencies, they work to ensure that necessary remedial measures are undertaken by the owner. The nature and timing of these initiatives are in proportion to the magnitude and imminence of the threat.

Many dams in New York State are municipally owned and operated, and can be costly for local governments to maintain properly. Recognizing the importance of assisting local officials with the costs of dam maintenance, Governor Pataki and the New York State Legislature dedicated \$15 million in the State's 1996 Clean Water/Clean Air Bond Act to municipal dam infrastructure activities. These funds have been used to eliminate hazardous conditions, provide exceptional and unique environmental, aesthetic or recreational public benefits, or enhance the safety of dam structures. To date, approximately \$8.9 million of these Bond Act funds have been allocated to dam safety projects across the State. Remaining Bond Act funds will be used by the Department to assist municipalities in meeting their responsibility of ensuring the safe operation of municipally-owned dams.

### **The Need for H.R. 4981**

H.R. 4981 provides much needed assistance to New York State's efforts to effectively protect the health and safety of its citizens and natural resources through the safe management of dams. By requiring the United States Army Corps of Engineers (Corps) to maintain and update information on the inventory of dams in the United States, this bill will provide New Yorkers with the assurance that they need that dams are maintained in a safe condition. Since the Corps' assessment of dams would be based on inspections completed by either a federal agency or a state dam safety agency, this program would effectively complement the dam safety activities which the Department already has underway, as described above.

Amendments to the federal NDSP statute in 2002 required the Federal Emergency Management Agency (FEMA) to develop a strategic plan for the implementation of federal dam safety guidelines. H.R. 4981 would strengthen FEMA=s role in dam safety by requiring this strategic plan to establish performance measures, in addition to goals, priorities, and target dates. This bill would ensure that, in order to receive assistance under the National Dam Safety Program, a state would be able to require or perform inspections at least every five years of those dams and reservoirs which pose a significant threat to human life and property; perform detailed and frequent safety inspections; and issue notices to require owners of dams to install and monitor instrumentation. As outlined above, New York State law clearly gives the Department the authority to meet these requirements and we endorse the language of H.R. 4981 which embraces this requirement by the federal government as well.

With federal recognition of these responsibilities comes the need for federal funds to assist states like New York in carrying them out. For that reason, the Department supports the provisions of H.R. 4981 which authorize adequate funds for the National Dam Safety Program, the National Dam Inventory, and for research, training, and staff.

### **Congressional Dam Rehabilitation and Repair Legislation - H.R. 1105**

In addition to the Department=s support for Congressional approval of H.R. 4981, I would like to emphasize the importance of enacting Congressional legislation that will ensure that the federal government demonstrates its commitment to the programs already underway in New York State to repair and rehabilitate many older dams, whose failure could significantly harm the health and safety of our citizens. Such a commitment is exemplified by H.R. 1105, introduced by Congresswoman Kelly.

H.R. 1105 would establish a grant program within the Federal Emergency Management Agency (FEMA) to aid states undertaking rehabilitation projects on deficient publicly-owned dams. Funds appropriated for the grant program would be allocated between two distribution schemes: one-third of appropriated funds would be divided evenly among all states submitting applications, while the remaining two-thirds of appropriated funds would be allocated based on each state=s level of need. For dams rehabilitated under this program, the federal share of rehabilitation costs for an individual dam may not exceed sixty-five percent of the total cost of rehabilitation. Authorized appropriations under this bill would amount to \$50,000,000 for Federal Fiscal Year 2007 (FY07), with \$100,000,000 per year authorized for FY08- FY10. The authorization of these funds would bolster the Department=s efforts to encourage dam owners in New York State to rehabilitate and repair the many older dams in New York which I have already discussed.

### **Conclusion**

Thank you for your attention to this important issue. By working together, we can ensure the quality of New York=s dams and, through that, the safety of the State=s residents, their property and water supply, and of the many natural and scenic resources which New York has to offer.

The Department=s efforts to help ensure that the dams of New York State are maintained in a safe condition are critical to protecting the people of New York, our communities, and the State=s plentiful natural resources. Through the continued efforts of our dedicated staff and exploration of new opportunities such as partnerships and innovative new technologies, we will continue to address the concerns of the State=s citizens.

I will be happy to answer any questions on the Department=s role in ensuring the safety of New York=s dams.